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SUPPOSE, FOR EXAMPLE—

BY P. BECKWITH DAVIS

CIVILIZATION has always progressed through military and diplomatic action by the more advanced States directed against predatory nations and those permitting predatory acts within their borders, either designedly or through negligence in administration. As civilization has advanced and extended its influence, the methods of depredations have changed; piracy on the high seas is no longer countenanced by any nation, although it was once licensed by rulers of nations. The nineteenth century saw a great advance in civilization, promoted by military action, when the United States engaged in the war against the Barbary pirates, which freed the Mediterranean trade routes from the tribute-taking buccaneers who were encouraged by their Governments. It saw another advance when the British and American Governments joined in action against the Chinese pirates; and when the British sent their military expeditions into Africa.

The twentieth century has no pirates to eliminate—at least, no pirates of the old school; but its problems of civilization are arising and must be met. It is proposed to shift the individual responsibilities of nations in handling these problems of civilization, by transferring them to a League of Nations. One question that is in the mind of every thoughtful American today, while the League of Nations is being discussed, is this: What effect would the adoption of the proposed League of Nations have on the actively—or permissively—predatory nation of today? This is a question that is especially pertinent in the United States. Would the League of Nations, with its present proposed Constitution, encourage or discourage internationally illegal acts of the ruling groups of nations or of their nationals?

We have always had predatory nations. Probably always shall have. Their depredations may change in form, as civilization itself is altered. Without predatory nations there would be no wars; and then the League of Nations, as at present planned, would have no reason for being. The very proposal of this League, with the Constitution as determined upon by the delegates at Paris, is an admission that predatory, ill-willed nations exist and are expected to exist. It is their acts that lead to wars. The query persists: Will the proposed Constitution of this League of Nations prevent, or encourage, these predatory nations in acts of depredation, or in complacent neglect to control their nationals on evil bent?

Let us suppose, for example, that after the adoption of such a League constitution as the one now being considered, Mexican leaders should consider themselves safe in permitting uninterrupted confiscation of properties. The producing oil properties for example, would be, according to programme, seized and distributed among favored Mexican companies.

Four Nations have already lodged complaints and protests against this confiscation of oil properties. By the proposed constitution of the League their action is prescribed in Article XVII. Mexico would be invited to become a member of the League for the purposes of considering the dispute, on equal terms with the protesting nations. The despoiled nations might then, as provided in Article XII, submit the question of the legality of such confiscation to arbitration or inquiry by the Executive Council of the League. The States, parties to the inquiry, have an indeterminate time for presentation of their arguments. The Council has six months within which to make "recommendations." For three months thereafter no step involving force may be taken.

It is fair to assume that the recommendation, or award, would be along lines of right and justice—to the effect that Mexico must respect property rights of foreigners legally acquired under former Governments and laws, and must return the properties to the owners. Suppose, as may well be supposed, that Mexico refuses to abide by the award of the League. What then? The dire results are laid down in Article XIII as follows: "The Executive Council shall propose what steps should be taken to give effect thereto."

Article XVI provides, in addition, that such breach of covenant shall be treated as an act of war—resulting in what? War? No; severance of trade relations, inhibitions, prohibition of all intercourse with League States—boycott and isolation. This would make the confiscation of oil fields unprofitable, if effectively applied. But suppose some country not a member of the League—Germany, for instance—refuses to boycott or aid in isolating Mexico. As a result, Mexican companies get the stolen oil fields, Germany gets cheap oil, and everybody outside the League of Nations is happy. The United States, England, and France would thus be cut off from the supply they urgently need, even now, to fill their requirements for the arts of peace, not to mention their needs in case of another war. In fine, all nations which refuse to boycott or isolate the offending country, together with predatory Mexico, profit by the arrangement.

But suppose, on the contrary, that Mexico, impelled by the moral force that has to date had no effect upon her performances, should accept the recommendation or award. In such a hypothetical—and highly improbable—case, much time would elapse before and during the consideration of the case by the League, and millions of barrels of oil meanwhile would be taken from the properties of American, British, and French owners and sold by the Mexican corporations substituted for them in ownership. The danger of exhaustion of the oil deposits by unskillful management during the tenure of Mexican companies is real. The value of two years' production of Mexican oil is more than \$50,000,000. Mexico is now unable to pay even the interest on her bonds; how could she be forced to pay this larger sum to compensate the American, British, and French owners when justice was done, and the legal rights of foreigners, legally acquired, were recognized by the final award?

Let us consider the Mexican problem and the League from yet another angle. Suppose that the United States has accepted the Covenant of the League. Thereafter, a border town is raided by starving Mexican soldiers, American men and women are killed, and property is stolen (an admissible supposition, in view of the fact that this has occurred more than once). By the League Covenant, the United States may not invade Mexican territory; a Pershing expedition

or a Glenn Springs pursuit is impossible under Articles XVI and XVII. The only result is a dispute covered by Article XVII. Mexico—actively, permissively or negligently guilty of an act of warlike aggression—is invited to become a member of the League in order to argue on an equality with the United States. She may refuse or accept; no time is set for her refusal or acceptance. During this delay—judging strictly from precedents—more raids may follow (other raids followed that of Columbus, in spite of, or because of, the New London conference). The hands of the United States are tied by the acceptance of the League Covenant. She may not even resist attack and aggression.

It is fair to assume that Mexico would refuse to discuss the situation at all. Carranza so refused in 1915. Then Article XVI fixes the penalty: boycott and isolation by members of the League. But will other States, not members of the League, co-operate? Some States may well be expected to take advantage of the boycott and continue trading with Mexico—and Mexicans will continue raiding as in the summer of 1916. It is not apparent how even a water-tight boycott can be expected to end unresisted border raids. Moral suasion cannot be expected to accomplish too much, even in these idealistic days.

But suppose Mexico accepts membership, and the question comes before the Executive Council. No time limit is set for presentation of statements of the case. Article XV says that this shall be done "as promptly as possible;" but a defendant nation may be expected to find prompt presentation impossible—and meantime the raids go on. Add, to the unlimited time for the presentation of statements of the case, the six months allowed for the formulation of the report, and then three months before an expedition may be sent against the raiders. Meanwhile, the raids continue, fostered by assurance of immunity.

Consider what the award will be. Will it take the form of admonition to Mexico to police her own borders and prevent the recurrence of murderous raids and land piracy? That is only a reminder of a duty Mexico always understood but always performed grudgingly, if at all. Will it be payment of indemnity to families of the killed and to owners of property carried away or destroyed? It would be refreshing, at least, to know that after these many years some damages must be paid. But how would the damages

be paid, and from what source would they come? Mexico pays today not even the interest on her national debt, or full salaries to civil employees. What means are provided to force payment?

As between two well-disposed States, both members of the League, the proposed Covenant may offer the cooling-off period provided by Mr. Bryan in his arbitration treaties. Its effect, doubtless, would be to bind collectively the States signatory to those treaties which Mr. Bryan began to make painstakingly between two nations at a time, the United States being one of the hobbled Powers in each instance. But the proposed Covenant, if accepted by the United States, would prevent this and other well-disposed and well-behaved States from taking the quick and decisive action necessary to repel invasion and aggression by predatory States, or by States unable to control their disorderly nationals. At the same time, it offers to such predatory or care-free States immunity from the immediate chastisement that alone could end, or has ever ended, their piratical transgressions.

Senator Hitchcock has stated that no aggression need be feared from Mexico because (1) League members are to respect only the territory of League members, and (2) Mexico cannot become a member, since she cannot give guarantees of compliance with her international obligations. Suppose, however, that some member of the League turns predatory. Had this Covenant been signed prior to 1914, Germany would have been a member—and undeterred, probably, from her ambitious undertaking thereby. Invasion of her borders would have been impossible by Russia or France because of the fact that she was a member.

Or suppose that some member becomes unable to control its predatory nationals. Mexico would have been a member of the League, beyond question, had the League been formed during the orderly days of Porfirio Diaz. Immunity from territorial invasion would have guaranteed the success of the revolutions that have been raging solely because of non-interference by the civilized nations; and Columbus, Agua Prieta, Glenn Springs, and worse, would have happened. With Mexico enjoying immunity as a League member, aggressions and invasions could have been met only by conversation, while the raiders, enriched and emboldened by this fatuous castigation, would have be-

come bolder, and the raids more frequent and farther reaching.

But, one moment. *IS* Mexico to be permanently debarred from membership? The United States has given Carranza *de facto* and *de jure* recognition, indicating that the nation thus favored can give and is giving satisfactory guarantees of compliance with its international obligations. Who will raise the question of Mexico's qualification for membership when she makes her application? The United States seems to be estopped from doing so. What wonder, in view of the situation that a little consideration of the past conjures up for the future, that the League Constitution as proposed is hailed as a beneficent gospel by the Mexican Government press? Extreme prison reform, with icê cream and cake for the daily menu, invariably meets with loud cheers from the criminal classes.

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